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In the Supreme Court of the United States

OCTOBER TERM, 1925

No. 713

DAVID H. BLAIR, COMMISSIONER OF INTERNAL REVENUE, petitioner

v.

UNITED STATES EX RELATIONE G. THOMAS BIRKENSTOCK and Gerald Ronon, executors of the last will of Margaret Murphy, deceased

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA

BRIEF FOR THE PETITIONER IN OPPOSITION TO MOTION TO AFFIRM

OPINION BELOW

The opinion of the Court of Appeals of the District of Columbia (R. 16) is reported in 6 F. (2d) 679. The opinion of the Supreme Court of the District (R. 12) is not reported. Both opinions are printed in the appendix to respondent's brief.

JURISDICTION

The judgment of the Court of Appeals of the District of Columbia to be reviewed was entered June 1, 1925. (R. 19.) The petition for certiorari was

filed August 27, 1925, and allowed October 26, 1925, under Section 240 (a) of the Judicial Code, as amended by the Act of February 13, 1925, Chap. 229, 43 Stat. 936.

THE QUESTION

The substantial question left in the case is whether, in the calculation of interest payable to the taxpayer on refunds allowed pursuant to the Revenue Act of 1924 on account of an excessive tax paid in quarterly installments, interest on the amount refunded should be computed on the amounts by which each quarterly payment exceeded one-fourth of the correct tax, from the dates of the respective quarterly payments, or whether the dates from which interest is computed should be the dates on which payments in excess of the full amount of the correct tax were made.

STATEMENT

During 1920 the respondents' testatrix, Margaret Murphy, paid to the Collector of Internal Revenue at Philadelphia, the sum of $88,956.92, as her income tax for the year 1919, in four equal quarterly installments of $22,239.23, on April 13, June 10, September 27, and December 13, respectively. (R. 4.) On May 18, 1923, a claim for refund of $35,054.85 was filed, and thereafter allowed, the schedule of overassessment being signed by the Commissioner and transmitted to the collector on May 19, 1924. After receiving the

collector's report, and on August 12, 1924, the Commissioner authorized the disbursing clerk to pay the respondents $35,054.85 and interest thereon, amounting to $1,057.41. The statutes provided for interest on a refund to the date of its "allowance." At that time (prior to the decision of the Court in No. 137, *Girard Trust Company et al.* v. *United States*, decided March 1, 1926) the Commissioner considered the date of allowance of the refund, and therefore the date to which interest thereon should be computed, to be the date on which the schedule of overassessment was signed and transmitted to the collector, which in this case was May 19, 1924, and the interest which he allowed the taxpayer was computed *to* May 19, 1924.

As that date of allowance was prior to the passage of the Revenue Act of 1924, the Revenue Act of 1921 was treated as determining the right to interest, and under it, there having been no specific protest when the tax was paid, interest was computed *from* a date six months after the claim for refund was filed, as provided in Section 1324(a) of the Revenue Act of 1921. (Chap. 136, 42 Stat. 227, 316.) That date was November 18, 1923. The interest actually paid, with the refund, was therefore interest at the rate of 6% per annum on $35,054.85 from November 18, 1923, to May 19, 1924.

The *Girard Trust Company case* has settled the point that the date of allowance was August 12, 1924, and that interest should have been computed

to that date. August 12, 1924, being the date of allowance, and the Revenue Act of 1924 having been passed June 2, 1924 (Chap. 234, 43 Stat. 253), and being applicable to allowances of refunds made after its passage, the latter Act and not the Revenue Act of 1921 fixes the date *from* which interest must be computed.

The Revenue Act of 1924 omitted the provision of the prior Act for computation of interest, in the absence of specific protest, from a date six months after the filing of the claim for refund, and made the date from which interest was to be computed in every case the date on which the amount erroneously or illegally collected was paid.

Section 1019 of the Revenue Act of 1924 (Chap. 234, 43 Stat. 253, 346) is as follows:

> Upon the allowance of a credit or refund of any internal-revenue tax erroneously or illegally assessed or collected, or of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate of 6 per centum per annum from the date such tax, penalty, or sum was paid to the date of the allowance of the refund, or in case of a credit, to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment, then to the date of the assessment of that amount. The term " additional

> assessment " as used in this section means a further assessment for a tax of the same character previously paid in part.

The question then is what was the date of payment of the tax illegally collected in this case. Was there an illegal collection of a part of each quarterly installment, or was there no payment of an illegally collected tax until after the installments paid had discharged the full amount of the correct tax owing to the Government?

SUMMARY OF ARGUMENT

I. The decision in *Girard Trust Company* v. *United States* (March 1, 1926) disposed of the question here presented as to the date of allowance of the refund, and consequently the date to which interest on a refund should be computed, but did not touch the other question in this case as to the date from which the interest should be computed.

The date of allowance being thus determined to be August 12, 1924, subsequent to the enactment of the Revenue Act of June 2, 1924, the latter Act applies and fixes the date from which interest on the refund is to be computed. The 1924 Act allows interest from the date of payment of a tax erroneously or illegally collected. There was no illegal or erroneous collection of any amount prior to the date when the taxpayer paid the full amount justly owing to the United States.

Where an excessive tax was paid in quarterly installments, there was no illegal collection as long as the aggregate amount paid did not exceed the total amount of the correct tax.

The statutes contemplated that if a quarterly installment paid exceeded one-fourth of the correct tax, the excess, without an allowance for interest thereon, should be applied on the balance owing.

The view opposed to that contended for by the Commissioner would result in allowing interest on a refund from a date prior to that on which any refundable excess was paid and from a date before that on which the right to a refund arose.

II. The point that mandamus will not lie is waived by the United States in order to obtain a decision on the merits. The point above discussed was clearly made by assignment of error in the brief supporting the petition for certiorari, if not in the petition itself, and any defect in the specification of errors in the petition should be disregarded.

ARGUMENT

I

THERE WAS NO TAX ILLEGALLY COLLECTED BEFORE THE AMOUNT OF THE CORRECT TAX HAD BEEN PAID

The *Girard Trust Company* case settles the point that the date of "allowance" of the refund in this case was August 12, 1924, and not May 19, 1924, as the Commissioner has contended. The

date to which interest should have been computed was August 12, 1924, and in that respect the decision below must stand. The *Girard Trust Company* case does not touch the question as to the date from which the interest computation should be made.

Section 1019 of the Revenue Act of 1924 provides that:

> Upon the allowance of a * * * refund of any * * * tax erroneously or illegally assessed or collected, * * * interest shall be allowed * * * on the amount of such * * * refund from the date such tax * * * was paid, etc.

The words "such tax" refer to the tax "erroneously or illegally assessed or collected." In the present case, the total tax paid was $88,956.92. The correct amount actually owed was $53,902.07. The excess erroneously collected, and afterwards refunded, was $35,054.85. The respondents contend that each of the quarterly installments paid by the taxpayer should have been $13,475.51 instead of $22,239.23, and that of each installment paid, $8,763.72, was "illegally collected," and therefore the interest on the refund should have been computed from April 13, 1920, on $8,763.72 thereof, from June 10 on $8,763.72 thereof, from September 27 on $8,763.72 thereof, and from December 13 on a like amount.

The Commissioner contends, on the other hand, that no amount was erroneously or illegally col-

lected, so long as the amount paid had not exceeded the true amount owing and payable, and since the correct tax in this case was $53,902.07, the amount of the two installments of $22,239.23 each, paid, respectively, April 13 and June 10, 1920, being in the aggregate less than the correct tax, was not erroneously or illegally collected, and when voluntarily paid the Government had a right to keep them, and it was not till the third installment was paid on September 27 that more than the true amount payable was collected. The third installment satisfied the true balance of $9,423.61 then owing, and to the extent of $12,815.62 represented a payment beyond the amount of the correct tax, and for the first time resulted in an illegal or erroneous collection by the United States. Interest should therefore be computed on $12,815.62 from September 27, 1920, and on $22,239.23 from December 13, 1920.

The Commissioner's position is fortified by the provisions of Section 250 of the Revenue Act of 1918 (Chap. 18, 40 Stat. 1057, 1082), under which this tax was paid. Subdivision (a) of that section provides:

> That * * * the tax shall be paid in four installments, each consisting of one-fourth of the total amount of the tax. * * *
>
> The tax may at the option of the taxpayer be paid in a single payment instead of in installments, etc.

Subdivision (b) of Section 250 of the 1918 Act provides (p. 1083):

> As soon as practicable after the return is filed, the Commissioner shall examine it. If it then appears that the correct amount of the tax is greater or less than that shown in the return, the installments shall be recomputed. If the amount already paid exceeds that which should have been paid on the basis of the installments as recomputed, *the excess so paid shall be credited against the subsequent installments; and if the amount already paid exceeds the correct amount of the tax, the excess shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.* (Italics ours.)

Section 252 of the 1918 Act provides (p. 1085):

> That if, upon examination of any return of income made pursuant to this Act, * * * it appears that an amount of income, war-profits or excess-profits tax has been paid in excess of that properly due, then, notwithstanding the provisions of section 3228 of the Revised Statutes, the amount of the excess shall be credited against any income, war-profits or excess-profits taxes, or installment thereof, then due from the taxpayer under any other return, and any balance of such excess shall be immediately refunded to the taxpayer.

Similar provisions are found in the 1924 Act.

The excerpts from the statutes clearly show that if a quarterly installment paid is more than one-

fourth of the true tax, the excess is to be credited on the balance owing, and the taxpayer receives no interest on the excess so applied. It can not be said that an illegal collection was made prior to September 27th, entitling the taxpayer to interest when, under these statutes, the United States had the right to retain the amounts paid prior to September 27th and apply them on the balance owing to it.

The installment feature was optional with the taxpayer. The United States should not be required to pay interest on amounts owing to it and presently payable, because paid at the option of the taxpayer before the date when penalties would have attached, unless expressly provided by statute.

A taxpayer who paid the entire tax in one installment was not entitled to interest by the 1918 Act for having anticipated the dates on which he was required to pay, by waiving the privilege of paying in installments.

If this taxpayer after paying two installments of the excessive tax had then discovered his mistake and had limited the third installment to the balance actually owing, he would have paid in advance of the dates on which he was required to pay, but he would obviously not have been entitled to be paid by the United States any interest on the amounts by which the installments paid exceeded one-fourth of the correct tax. There would, in that case, have been no refund. The present case is not different

in principle. The tax in this case was voluntarily paid, and no amount was paid in excess of the correct tax until September 27th, and how can it be said a voluntary payment of no more than was owing resulted in an illegal or erroneous collection? There was no refundable excess paid until September 27th, and there must be a fallacy in the contention that interest on a refund must be computed from a date prior to that on which any refundable amount was paid by the taxpayer, and from a date prior to the date when the right to a refund arose.

II

THE POINT RESPECTING THE DATE FROM WHICH INTEREST IS COMPUTED IS PRESENTED BY THE PETITION AND BRIEF FOR CERTIORARI

The brief for the respondents in support of the motion to dismiss or affirm states that only two questions were raised by the petition for certiorari, and they were: First, whether mandamus will lie against the Commissioner, and, second, whether the date of allowance, to which interest is to be computed, was correctly determined.

The suggestion is that the petition for certiorari does not specify as an error the decision of the Court of Appeals on the question as to the date *from* which interest should be computed.

The petition for certiorari is loosely drawn, and in it the question discussed in paragraph I of this brief is not pointed out. It must be admitted that a well-drawn petition for certiorari should specify

all the errors to be urged. In this case, however, attached to the petition, under the same cover, the brief in support, under the head of "Specification of Errors to be Urged," contains the following (page 9):

> 3. The court erred in holding that respondents are entitled to interest from the dates of the payments of the quarterly instalments of the decedent's 1919 tax.

The alleged error was clearly specified there.

The point was also made in the Court of Appeals of the District, by assignment of error (R. 14), which is the same as that in the brief in support of the petition for certiorari.

The Court may, under Rule 25, paragraph 4, consider an error unassigned. It also has the power to allow amendments to the assignments of error.

The question here presented is important. The Treasury Department has consistently adhered to the construction of the 1924 Act here urged respecting the date from which interest on refunds is to be computed, when the tax was paid in installments. Other pending cases, involving in the aggregate very considerable sums, will turn on the question. If this attempt to present the point is defeated because of the fact that the specification of error was in the supporting brief instead of in the petition for certiorari, it will be necessary to bring another test case to this Court.

The Court should treat the specification of error in the brief as part of the petition (*Hubbard* v. *Tod*,

171 U. S. 474, 494) or consider the petition amended to include it, or exercise its power to consider an unassigned error, and decide the case on the merits.

There is much that could be said in support of the point that mandamus will not lie. That point is waived, and the assignment of error based on it is withdrawn. Since this case is here, the interests of taxpayers as well as of the United States will be better served by a decision on the merits, settling the proper course to be followed in other cases by the Bureau of Internal Revenue than by urging a point of procedure which, if sustained, would mean further litigation, expense, and delay. It is hoped therefore that the Court may see its way clear to decide the case on the merits.

Respectfully submitted.

WILLIAM D. MITCHELL,
Solicitor General.
NEWTON K. FOX,
Assistant Solicitor of Internal Revenue.
RALPH E. SMITH,
Special Attorney.

APRIL, 1926

○

POSTPONED TO MERITS
APR 19 1926

Office Supreme Court, U. S.
FILED
MAR 26 1926
WM. R. STANSBURY
CLERK

IN THE

Supreme Court of the United States

October Term, 1925.

No. 713.

DAVID H. BLAIR,
COMMISSIONER OF INTERNAL REVENUE,
Petitioner.

vs.

UNITED STATES, EX REL. G. THOMAS BIRKENSTOCK AND GERALD RONON, EXECUTORS OF THE LAST WILL OF MARGARET MURPHY, DECEASED,
Respondents.

MOTION TO AFFIRM AND BRIEF IN SUPPORT THEREOF.

JAMES CRAIG PEACOCK,
JOHN W. TOWNSEND,
Counsel for Respondents.

PRESS OF BYRON S. ADAMS, WASHINGTON, D. C.

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IN THE

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Respondents.

MOTION TO AFFIRM.

Now come the respondents, by their counsel, and move that the judgment of the Court of Appeals of the District of Columbia be affirmed for the reason that since the granting of the petition for certiorari in this case on October 26, 1925, all the questions raised in the petition as "Reasons for granting the petition" have been settled and concluded by the decision handed down by this Court on March 1, 1926, in *Girard Trust Company, et al, vs. United States,* October Term, 1925, No. 137.

Respectfully submitted,

JAMES CRAIG PEACOCK,
JOHN W. TOWNSEND,
Counsel for Respondents.

BRIEF IN SUPPORT OF MOTION.

Opinions of the Courts Below

The opinion of the Court of Appeals of the District of Columbia is now reported at 6 F. (2d) 679. The opinion of the Supreme Court of the District of Columbia is not reported.

Jurisdiction.

This case is pending in this Court by virtue of writ of certiorari granted October 26, 1925, under Section 240(a) of the Judicial Code as amended by the Act of February 13, 1925 (43 Stat. 936).

Statement.

During 1920 Margaret Murphy made a return of and paid to the Collector of Internal Revenue for the First District of Pennsylvania $88,956.92 as income tax for 1919, for which a claim for refund was subsequently filed. On May 19, 1924, the Commissioner of Internal Revenue signed a schedule form which showed an overassessment of $35,054.85 in her 1919 tax. This was transmitted to the said Collector with instructions to examine the taxpayer's account and to report back what portion, if any, of the $35,054.85 should be refunded. The Collector made his report on June 30, 1924. The Deputy Commissioner of Internal Revenue confirmed the report on August 12, 1924, and on the same day the Commissioner for the first time directed

the refund and signed the authorization to the disbursing clerk to pay it (Exhibits A and B*).

The principal question raised in this case was *whether May 19, 1924, or August 12, 1924,* was *the* date of the allowance *of the refund.* The lower court held that August 12, 1924, was "the date of the allowance of the refund" within the meaning of Section 1019 of the Revenue Act of 1924 (43 Stat. 253, 346), and that interest on the refund should be allowed to that date and as provided in that section. The Court of Appeals affirmed that decision.

Argument.

1. The petition for writ of certiorari which has been allowed by this Court raises only one substantial question, viz., what was the date of allowance of the refund?

It is true that on the first page of the petition two questions are in the following terms stated as being presented:—

"I.

Does mandamas lie to compel the Commissioner of Internal Revenue to compute additional interest upon a refund of taxes under the provisions of section 1324 (a) of the Revenue Act of 1921?

---

*Note. The petitioner has not yet provided for the printing of the record in this case, although the writ of certiorari was allowed October 26, 1925. The respondents have therefore printed and attached as an appendix to this brief such portions of the record as are necessary for consideration of their motion, viz., Exhibits A and B of Commissioner's answer in the Supreme Court of the District of Columbia, and the opinions of that court and of the Court of Appeals.

II.

What is the date of the 'allowance of a claim for the refund of or credit for internal revenue taxes paid' within the meaning of section 1324 (a) of the Revenue Act of 1921?"

But that is also the last and only reference *in the petition* to the first of these questions, and in the "Reasons for Granting the Petition" on pages 3 and 4 the petitioner made no further reference to this question and suggests no reasons why the petition should be granted on any ground other than those relating to the second question.

It is submitted therefore that there was no proper basis for any argument that appeared on this point in the brief "in support of" the petition, and that this aspect of the case may well be considered as disposed of by the Court of Appeals and on the authority of the decisions cited in its opinion.

That court held—

> "No question of fact is involved in this case, nor is the appellant required to exercise any discretion when allowing interest upon such refunds. The duty is ministerial only, and is mandatory. Upon the facts in the case, the appellees have no other adequate remedy. They are therefore entitled to a writ of mandamus. *Roberts v. Valentine*, 176 U. S. 221, *Lane v. Hoglund*, 244 U. S. 174, *Work v. McAlester-Edwards Co.*, 252 U. S. 200."

Every one of the five reasons alleged in the petition related to the question of what was the date of allowance, to consideration of which question we now turn.

2. The question as to what was the date of allowance is controlled by the decision since handed down by this Court in the Girard Trust Company case, and the decision of the lower court should be affirmed on its authority.

On refunds allowed between November 23, 1921, and June 1, 1924, inclusive, interest was provided for in Section 1324 (a) of the Revenue Act of 1921 (41 Stat. 227, 316):

> "That upon the allowance of a claim for the refund of or credit for internal revenue taxes paid, interest shall be allowed and paid upon the total amount of such refund or credit at the rate of one-half of 1 per centum per month to the date of such allowance, as follows: (1) if such amount was paid under a specific protest setting forth in detail the basis of and reasons for such protest, from the time when such tax was paid, or (2) if such amount was not paid under protest but pursuant to an additional assessment, from the time such additional assessment was paid, or (3) if no protest was made and the tax was not paid pursuant to an additional assessment, from six months after the date of filing of such claim for refund or credit. The term 'additional assessment' as used in this section means a further assessment for a tax of the same character previously paid in part."

while on refunds allowed on and after June 2, 1924, interest was directed to be paid in accordance with the more liberal provisions of Section 1019 of the Revenue Act of 1924 (43 Stat. 253, 346) which was enacted on that date:

> "Upon the allowance of a credit or refund of any internal-revenue tax erroneously or illegally

> assessed or collected, or of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate of 6 per centum per annum from the date such tax, penalty, or sum was paid to the date of the allowance of the refund, or in case of a credit, to the due date of the amount against which the credit is taken, but if the amount against which the credit is taken is an additional assessment, then to the date of the assessment of that amount. The term 'additional assessment' as used in this section means a further assessment for a tax of the same character previously paid in part."

But that the procedure under the two acts was *identically* the same is apparent on examination of Exhibits A and B (copies of which are appended to this brief.) It can be seen at a glance that the first two certificates on the first schedule (Exhibit A) were signed prior to June 2, 1924, while Sec. 1324 (a) of the Revenue Act of 1921 was still in effect, whereas the last certificate on that schedule and all three certificates on the second schedule (Exhibit B) were signed after June 2, 1924, when Sec. 1019 of the Revenue Act of 1924 took effect. It is apparent therefore that the new statutory provision neither made nor required any change in the departmental procedure or course of business.

In *Girard Trust Company et al. vs. United States*, October Term, 1925, No. 137, decided March 1, 1926, exactly the same question as to the date of allowance of a refund was passed on by this Court. The refund in that case was allowed in 1923 instead of in 1924 as in this case, and hence the interest was payable

under Sec. 1324 (a) of the Revenue Act of 1921, but the case was presented to this Court on a record which included as exhibits the schedules which corresponded to and were substantially the same as the present Exhibits A and B. This Court in its opinion described the course of business as shown by those exhibits and held that the refund was not allowed until January 16, 1923, when the Commissioner signed the authorization of payment of the refund on the second schedule. This court said:

> "We cannot concur, however, in the view of the Treasury Department that the date of the allowance of the claim as intended by the statute is the date when the Commissioner first decides that there has been an overassessment and sends upon a proper form his decision to the Collector of Internal Revenue, who made the collection and keeps the account with the taxpayer. The findings and the exhibits show that the course of business is that the Collector on receiving from the Commissioner the schedule as to the overassessment, examines his books and reports back to the Bureau the amount which should be credited on taxes due and the amount to be refunded, that this is examined by the Assistant Commissioner and then is delivered to the Commissioner, who makes it effective by his approval. Until it reaches him and is approved by him, the refund can not be paid. This we think is the real date of allowance. Until that time, the exact amount of the refund is not fixed finally by competent authority. This date would seem to be just as certain and convenient from an administrative standpoint as that of the original decision of the Commissioner, and it is certainly more in conformity to the general purpose of Congress to relieve the overassessed taxpayer by paying compensatory interest on money

> unjustly taken and kept by the Government. We think, therefore, that the trustees are entitled to recover from the Government, interest on both the refund for the taxes of 1917 and that for those of 1920 from December 9, 1922 to January 16, 1923."

In the present case the Commissioner approved the refund by signing on August 12, 1924, the authorization for its payment. The decision of the court below that this was the date of allowance is therefore no longer open to question and should be affirmed on the controlling authority of the *Girard Trust Company case.*

3. There being no other questions raised by the petition for certiorari, the judgment of the court below which is in accordance with the subsequent decision of this Court should be affirmed.

Respectfully submitted,

JAMES CRAIG PEACOCK,
JOHN W. TOWNSEND,
Counsel for Respondents.

"Exhibit A"

2425

TREASURY DEPARTMENT
U.S. INTERNAL REVENUE SERVICE
Form 7805
Form approved by Comptroller General
Feb. 5, 1935

IMMEDIATE

This schedule must be executed and all required steps taken without delay.
COMMISSIONER OF INTERNAL REVENUE.

SCHEDULE OF OVERASSESSMENTS
AND
ALLOWANCE OF ABATEMENTS, CREDITS, REFUNDS, AND RELATED CLAIMS, IF ANY

INCOME TAX UNIT

ORIGINAL
Voucher to General Accounting Office

Schedule No. IT-A- 10274

Sheet 1 of 2 sheets

FIRST District of PENNSYLVANIA

CERTIFICATE OF DEPUTY COMMISSIONER

Commissioner of Internal Revenue:

The returns of the taxpayers listed herein, together with their claims (if any) and appropriate supporting evidence, have been carefully examined and the tax liability of the respective taxpayers has been determined in accordance with the available facts and the law. The overassessments or reductions in tax liability appearing in column 4 are accordingly recommended for allowance.

Date

Deputy Commissioner

AUTHORIZATION OF COMMISSIONER

To the Collector FIRST *District of* PENNSYLVANIA

The amounts listed in column 4 as overassessments (or reductions of tax liability) are hereby approved, and the related claims, if any, allowed in the respective amounts indicated by the certification of Overassessment" or "Notice of Adjustment of Refund" attached thereto.

You will immediately check such items against the accounts of the several taxpayers, and determine whether the amounts in which the tax liabilities have been reduced should be restored wholly or in part, and make such abatements as may be warranted by the condition of the taxpayers' accounts for the years involved.

If any part of any such item is found to be an overpayment, you will examine all accounts of the taxpayer for other periods and apply the overpayment as a credit against the taxes due, if any, making the appropriate entries in your accounts. (The section only to income, war profits, and excess profits taxes.) Such credits will be entered in column 9, and placed in column 5 of a subsidiary Schedule of Refunds and Credits (Form 7805-A).

The balance, if any, of the overpayment will be entered in column 12, and placed in column 4 of the subsidiary schedule (Form 7805-A) referred to above, and an appropriate memorandum made upon the taxpayer's account.

You will thereupon complete and certify this schedule and the schedule upon Form 7805-A, and return the necessary copies of each to the Commissioner of Internal Revenue.

Date 19

Commissioner of Internal Revenue

CERTIFICATE OF COLLECTOR

To the Commissioner of Internal Revenue:

The items in this schedule have been checked against the accounts of the respective taxpayers concerned and the amounts indicated have been applied as abatements and credits on their accounts.

The amounts of overpayment and the net amounts refundable have been determined to be as indicated hereon.

Date June 30, 1924

1st. District of Pa.

ACCOUNTS UNIT
Items not entered

Item No.	Certificate of Overassessment or Claim Number	Name and Address of Taxpayer	Overassessments or Reductions of Tax Liability (Amount)	Ledger, Page and Line, or Account Number	Tax Liability Year	Abatement (Amount)	Overpayment (Amount)	Credit (Amount carried to Form 7805-A)	Account Credited: Ledger, Page, and Line	Due Date of Items Against Which Credit Was Made	Net Amount Refundable Carried to Form 7805-A	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
X	X X	TOTALS OF 32 ITEMS IN THIS SCHEDULE		X X X	X	736.30			X X X	X X		X X

(Entries to be made by the Collector)

TREASURY DEPARTMENT
U.S. INTERNAL REVENUE SERVICE
Form 7806 (Continuation Sheet)
Form approved by Comptroller General
Feb. 5, 1935

1st Pa.

SCHEDULE OF OVERASSESSMENTS
AND ALLOWANCE OF ABATEMENTS, CREDITS, REFUNDS, AND RELATED CLAIMS, IF ANY

ORIGINAL
Voucher to General Accounting Office

INITIALS

Schedule No. IT-A-10274

Continuation Sheet No. 2

(Entries to be made by the Collector)

Item No.	Certificate of Overassessment or Claim Number	Name and Address of Taxpayer	Overassessments or Reductions of Tax Liability (Amount)	Ledger, Page and Line, or Account Number	Tax Liability Year	Abatement (Amount)	Overpayment (Amount)	Credit (Amount carried to Form 7805-A)	Account Credited: Ledger, Page, and Line	Due Date of Items Against Which Credit Was Made	Net Amount Refundable Carried to Form 7805-A	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
26	663846	Montgomery Trust Co.	104 63		21		104 63				104 63	O.A.
27	646309	Murphy, John A.	5,655 37		19		5655 37				5655 37	
28	646310	Murphy, Joseph L.	3,843 50		19		3843 50				3843 50	
29	663922	Murphy, Margaret	35,054 85		19		35054 85				35054 85	
30	649591	Peckitt, Leonard	1,350 98		17		1350 98				1350 98	
31	650945	Sweeten Wilmington Co.	30 01		17		30 01	1 25	2d 1924, July Tax Transfer	12/30/23	6 75	O.A.
32	663732	Villa Villa Amusement Co.	77 26		21		77 26				77 26	O.A.
X	X X	PAGE TOTALS ONLY		X X X	X				X X X	X X		X X

MAY 17 1924

844

Exhibit B

TREASURY DEPARTMENT
U. S. Internal Revenue Service
Form 2866-A
Form approved by Comptroller General
Feb. 2, 1922

IMMEDIATE
This schedule must be executed and all required steps taken without delay.
Commissioner of Internal Revenue.

SCHEDULE OF REFUNDS AND CREDITS

ILLEGAL OR ERRONEOUS COLLECTIONS

INCOME TAX UNIT

ORIGINAL
Voucher to General Accounting Office

Schedule No. IT-R-10274

Sheet 1 of ..... Sheets

First Dist. of Penna.

D. C. Voucher No. 262

UNIT	NOTATIONS	DATE
AHL		10/1/24

27

CERTIFICATE OF COLLECTOR

To the Commissioner of Internal Revenue:

The items hereon are collected as they appeared for refund or credit on an original schedule (bearing the same number) of overassessments and related claims, if any, heretofore approved and allowed by the Commissioner of Internal Revenue. An examination of the accounts of the several persons named thereon has been made by me to the purpose of such previously allowed overassessments, and no outstanding liability subject to offset or credit.

Date June 30, 1924

R. Rumbaugh
Collector, Fifth District of Pennsylvania

CERTIFICATE OF DEPUTY COMMISSIONER

Commissioner of Internal Revenue:

The items listed in column 6 hereof have been found to be the refundable portions of overassessments hereinbefore allowed, and the accrued interest, if any, listed in column 8 has been found due.

Date AUG 5 1924

Deputy Commissioner.

AUTHENTICATION OF COMMISSIONER

To the Disbursing Clerk, Treasury Department:

The items listed in column 4 hereof have been found to be the refundable portions of overassessments hereinbefore allowed, and the accrued interest, if any, listed in column 8 has been found due. Payment may, therefore, be made in the manner directed in column 7.

Date AUG 12 1924

D H Blair
Commissioner of Internal Revenue.

Item No. (1)	Certificate of Overassessment or Claim Number (2)	Name and Address of Taxpayer (3)	Net Amount Refundable (4)	Amount Credited (5)	(Not to be used by Collector) Interest Allowed (6)	(Not to be used by Collector) Total Refundable (7)	Date or Fiscal Payments of Amounts on which Credits were Transferred and Overassessments Paid (8)	(Not to be used by Collector) Refunding Taxes Illegally Collected 1925 and Prior Years (9)	19..... (10)	19..... (11)	Paid by Disbursing Clerk, Treas. Dept., by Check Dated Number as Follows (12)	Remarks (13)
X	X X	TOTALS OF 27 ITEMS IN THIS SCHEDULE	[illegible]	[illegible]	2356 [illegible] C	54741 34 C	X	54741 34 C			AUG 25 1924 X X	X X

TREASURY DEPARTMENT
U. S. Internal Revenue Service
Form 2866-A (Continuation Sheet)
Form approved by Comptroller General
Feb. 2, 1922

INCOME TAX UNIT

SCHEDULE OF REFUNDS AND CREDITS

ORIGINAL
Voucher to General Accounting Office

INITIALS

Schedule No. IT-R-10274

Continuation Sheet No. 2

Item No. (1)	Certificate of Overassessment or Claim Number (2)	Name and Address of Taxpayer (3)	Net Amount Refundable (4)	Amount Credited (5)	(Not to be used by Collector) Interest Allowed (6)	(Not to be used by Collector) Total Refundable (7)	Date or Fiscal Payments of Amounts on which Credits were Transferred and Overassessments Paid (8)	(Not to be used by Collector) Refunding Taxes Illegally Collected 1925 and Prior Years (9)	19..... (10)	19..... (11)	Paid by Disbursing Clerk, Treas. Dept., by Check Dated Number as Follows (12)	Remarks (13)
29	552922	Murphy, Margaret	35054 85		1057 41	36112 26	12/15/20	36112 26				
X	X X	*Page Total Only	38908 30 C		1113 38 C	40122 71 C	X	40122 71 C			X X	X X